

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,

No. 27362-8-III

Respondent,

Division Three

v.

JOHN ALEX BUCHMANN,

UNPUBLISHED OPINION

Appellant.

Brown, J. — John A. Buchmann appeals his bench-trial conviction for failure to register as a sex offender. Mr. Buchmann contends since he was not in custody or on active supervision on the date the registration statute was enacted, he was not required to register under RCW 9A.44.130 and sufficient evidence does not exist to support his conviction. As a matter of law Mr. Buchmann had a legal duty to register. The evidence is sufficient to show he failed in that duty. Accordingly, we affirm.

FACTS

Mr. Buchmann pleaded guilty to indecent liberties in 1987. The court sentenced him under the Special Sexual Offender Sentencing Alternative (SSOSA), but after he violated the program's requirements, his SOSSA was revoked. In May 1990, the court

reinstated Mr. Buchmann's 20-month sentence. He was released from custody in November 1992. The State notified Mr. Buchmann of his notification requirements in 1993. He was convicted of failure to register in 2000 and 2003.

On February 28, 2006, Mr. Buchmann registered his address as 3701 Deer Creek Road in Stevens County. In early 2007 the Stevens County Sheriff's office sent Mr. Buchmann several address verification packets to this address. The post office returned each packet. On May 14, 2008, a deputy responded to 3701 Deer Creek Road to verify his address. The home was vacant. The following week, Mr. Buchmann phoned the Stevens County Sheriff's office, stating that he had been staying at a friend's in Chewelah through the winter. He claimed he reported this earlier, but no such record was found. A deputy returned to the Deer Creek Road address, finding what appeared to be little more than a primitive camp on a mountain top still vacant. The State charged Mr. Buchmann with failure to register as a sex offender.

Mr. Buchmann requested dismissal, arguing he had no requirement to register. The court denied his request. Following a stipulated-facts bench trial, Mr. Buchmann was convicted as charged. He appealed.

ANALYSIS

The issue is whether Mr. Buchmann had a duty to register as a sex offender. He contends under RCW 9A.44.130(4)(a)(ii) offenders not in custody or under active supervision on February 28, 1990, do not have a duty to register and since there was

no finding he was in custody or under active supervision at that time, then sufficient evidence does not exist to support his conviction.

The choice, interpretation, and application of a statute to particular facts are matters of law reviewed de novo. *State v. Ayala*, 108 Wn. App. 480, 484, 31 P.3d 58 (2001). In interpreting statutory language, courts must consider context, related provisions, and the statutory scheme as a whole. *State v. Jacobs*, 154 Wn.2d 596, 600, 115 P.3d 281 (2005). Absent ambiguity, “the court must give effect to [the statute’s] plain meaning as an expression of legislative intent.” *Id.* (quoting *Dep’t of Ecology v. Campbell & Gwinn, L.L.C.*, 146 Wn.2d 1, 9-10, 43 P.3d 4 (2002)).

Sex offenders have a duty to register under RCW 9A.44.130(1)(a), “[a]ny adult or juvenile residing . . . in this state who has been found to have committed or has been convicted of any sex offense or kidnapping offense . . . shall register with the county sheriff.” This duty applies to every person convicted of a sex offense under chapter 9A.44 RCW after the effective date of the original act, February 28, 1990.

In addition to the duty to register, RCW 9A.44.130(4)(a) provides registration deadlines in which an offender must initially register. Relevant to this appeal, RCW 9A.44.130(4)(a)(ii) states that offenders not in custody, “but are under the jurisdiction of the indeterminate sentence review board or under the department of corrections’ active supervision . . . for sex offenses committed before, on, or after February 28, 1990, must register within ten days of July 28, 1991.”

The various timelines contained in RCW 9A.44.130(4)(a) are deadlines for when a sex offender must register. *State v. Munds*, 83 Wn. App. 489, 495-96, 922 P.2d 215 (1996). These deadlines do not relieve sex offenders of the duty to register. *Id.*

The registration requirements apply to Mr. Buchmann. Later amendments have established registration deadlines according to various factors including whether the convict is in custody or under supervision. The changes do not relieve Mr. Buchmann, or any other sex offender, of the duty to register. Mr. Buchmann pleaded guilty to indecent liberties, which qualifies as a sex offense under chapter 9A.44 RCW. Because of this conviction, he is required to register under RCW 9A.44.130(1)(a). He acknowledged this duty by registering in the past. He is also aware of the consequence for not registering as evidenced by his two prior failures to register convictions.

Mr. Buchmann next contends sufficient evidence does support his conviction. The test for reviewing a defendant's challenge to the sufficiency of evidence in a criminal case is "whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the elements of the crime beyond a reasonable doubt." *State v. Gentry*, 125 Wn.2d 570, 596-97, 888 P.2d 1105 (1995). All reasonable inferences from the evidence are drawn in favor of the State. *Id.* at 597.

Deputies could not locate Mr. Buchmann at the address he initially provided.

The address was little more than a camp site in the mountains. Mr. Buchmann admitted to living in another location during the winter and claimed he reported this, but no record exists to substantiate his claim. Because Mr. Buchmann was required to register and, based on stipulated facts, he failed to do so, sufficient evidence exists to support his failure to register conviction.

Affirmed.

A majority of the panel has determined this opinion will not be printed in the Washington Appellate Reports, but it will be filed for public record pursuant to RCW 2.06.040.

Brown, J.

WE CONCUR:

Schultheis, C.J.

Sweeney, J.